



BILLING CODE: 4410-09-P

**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**Gregory White, M.D.;
Decision and Order**

On December 18, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Gregory White, M.D. (Registrant), of Redding, California. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration BW7606619, and the denial of any pending application to renew or modify his registration, on the ground that he is no longer authorized to handle controlled substances in California, the State in which he is registered with DEA. Show Cause Order at 1(citing 21 U.S.C. 823(f) & 824(a)(3)).

The Show Cause Order alleged that Registrant is registered with the DEA as a practitioner in Schedules II – V, at the registered address of 473 South Street, Redding, California 96001, and that his registration does not expire until May 31, 2016. Id. at 1. The Show Cause Order then alleged that on May 21, 2013, the Medical Board of California (MBC) issued an accusation against Registrant, seeking to revoke or suspend his state medical license. Id.

Next, the Show Cause Order alleged that on September 13, 2013, an administrative law judge (ALJ) with the State's Office of Administrative Hearings (hereinafter, OAH) issued an order granting the MBC's Petition for an Ex Parte Interim Suspension Order, which immediately suspended Registrant's license to practice medicine. Id. The Show Cause Order further alleged that on October 9, 2013, the OAH ALJ issued a Decision and Order, which suspended Registrant's license to practice medicine in the State of California and scheduled a hearing for

June 30 through August 8, 2014. Id. at 1. The Show Cause Order thus alleged that Registrant does not have a valid license to handle controlled substances as required by state law, and that he is therefore currently without authority to handle controlled substances in the State in which he is registered with the DEA. Id. at 2 (citing Cal. Health & Safety Code section 11000 et seq.; Cal. Bus. & Prof. Code section 2000 et seq.). The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. Id. at 2 (citing 21 CFR 1301.43).

On December 19, 2013, a DEA Special Agent personally served the Order to Show Cause on Registrant. GX 6, at 1. Since the date of service, neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. Because more than thirty (30) days have passed since service of the Show Cause Order, I conclude that Registrant has waived his right to a hearing or to submit a written statement. 21 CFR 1301.43(d). I therefore issue this Decision and Order based on relevant material contained in the record submitted by the Government. I make the following factual findings.

FINDINGS

Registrant is the holder of DEA Certificate of Registration BW7606619, pursuant to which he is authorized to dispense controlled substances in schedules II through V. GX 2, at 1. Registrant also holds an identification number as a Data-Waived Practitioner. Id. Registrant last renewed his registration on April 15, 2013, and his registration does not expire until May 31, 2016. Id.

On September 13, 2012, the MBC filed an Accusation against Registrant's California Physician's and Surgeon's Certificate, and on May 21, 2013, the MBC filed a First Amended

Accusation which raised extensive allegations regarding his prescribing of controlled substances to five patients. GX 3; GX 5, at 3.

On some date which is not clear on the record, the MBC filed a Petition for an Ex Parte Interim Suspension Order. GX 4, at 1. On September 13, 2013, a state ALJ conducted a hearing, after which she concluded that Registrant “is unable to practice safely due to violations of the Medical Practice Act,” that permitting him “to continue to engage in the practice of medicine will endanger the public health, safety, and welfare,” and that “[s]erious injury would result to the public before the matter can be heard on notice.” Id. at 2. The ALJ then ordered that Registrant’s state medical license be immediately suspended pending a further hearing. Id.

On October 2, 2013, the state ALJ conducted that hearing (at which both parties put on evidence), after which she concluded that: 1) the MBC had established that there was “a reasonable probability that [it would] prevail if an accusation is filed against” Registrant, and 2) “the likelihood of injury to the public in not issuing an [immediate suspension order] outweighs the likelihood of injury to respondent in issuing the order.” GX 5, at 9. Accordingly, the state ALJ granted the MBC’s petition and suspended Registrant’s California medical license and thus prohibited him from practicing medicine in the State pending a final decision on the accusation. Id. at 12¹ (citing Cal. Govt. Code § 11529(f) (West 2013)). An internet search of the MBC’s public record actions webpage found the following entry for Registrant: “full interim suspension order issued – no practice.”

¹ The Order also scheduled the final hearing on the MBC’s accusation for June 30 through August 8, 2014. GX 5, at 3.

DISCUSSION

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 “upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, “DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration.” Richard H. Ng, 77 FR 29694, 29695 (2012).

This rule derives from the text of two provisions of the CSA. First, Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f).

Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has further held that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. See, e.g., Calvin Ramsey, 76 FR 20034, 20036 (2011); Sheran Arden Yeates, M.D., 71 FR 39130, 39131 (2006); Dominick A. Ricci, 58 FR 51104, 51105 (1993); Bobby Watts, 53 FR 11919, 11920 (1988). This is so even where the practitioner’s state authority has been suspended prior

to a hearing on the merits of the State's accusation and at which, the practitioner may ultimately prevail. See, e.g., Ng, 77 FR at 29695 (citations omitted).

Because Registrant is no longer licensed to practice medicine and to dispense controlled substances in California, the State in which he is registered with DEA, under the CSA, he is no longer entitled to hold his registration. Accordingly, I will order that his registration and X-number be revoked and that any pending applications be denied.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration BW7606619 and Data-Waiver Identification Number XW7606619 issued to Gregory White, M.D., be, and they hereby are, revoked. I further order that any pending application of Gregory White, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.²

Date: April 21, 2014.

Thomas M. Harrigan,
Deputy Administrator.

² For the same reasons that the State of California has immediately suspended Registration's medical license, I conclude that the public interest necessitates that my Order be effective immediately. See 21 CFR 1316.67.

